



STATE OF MICHIGAN

DEPARTMENT OF HUMAN SERVICES
LANSING

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IV-D MEMORANDUM 2014-002

TO: All Friend of the Court (FOC) Staff
All Prosecuting Attorney (PA) Staff
All Office of Child Support (OCS) Staff

FROM: Erin P. Frisch, Director
Office of Child Support

DATE: February 28, 2014

SUBJECT: Revisions to Administrative Hearing Procedures

RESPONSE DUE: None

POLICY EFFECTIVE DATE: March 1, 2014

PURPOSE:

This IV-D Memorandum introduces changes to IV-D policy to improve collaboration between public assistance staff and IV-D staff in the hearing process. OCS and public assistance staff have worked in cooperation with Michigan Administrative Hearing System (MAHS)¹ staff to improve communication between public assistance programs and the IV-D program when a public assistance applicant/recipient contests an action related to the child support program requirements. The changes are designed to increase the efficiency of the hearing process and to ensure adjudication of all relevant and necessary issues as early as possible.

Changes to the hearing process include:

- Emphasis on the responsibilities of Department of Human Services (DHS)-designated hearings coordinators as the point of contact between DHS offices and IV-D offices;
- Revised time frames for the hearing process;
- Mandated prehearing conferences; and
- Improved MAHS communication and tracking.

¹ MAHS is a bureau within the Department of Licensing and Regulatory Affairs (LARA).

UPDATE(S):

☐ Manual

☐ Form(s)

These changes will be incorporated into [Section 3.55, “Hearings,” of the Michigan IV-D Child Support Manual](#) in a future publication. Effective March 1, 2014, the [Bridges Administrative Manual, BAM 600, “Hearings,”](#) will include these changes for public assistance staff.

DISCUSSION:

Federal regulations² and state laws³ governing assistance programs provide every assistance applicant/recipient or his/her authorized hearing representative (AHR)⁴ with the right to an administrative hearing to contest the denial, reduction or termination of assistance by DHS. The IV-D program is part of the hearing process when the assistance applicant/recipient is the custodial party (CP) on a child support case, and the hearing request is a result of a child support issue such as a finding of noncooperation with child support requirements.⁵

When a CP or AHR challenges actions taken by DHS, IV-D staff can be effective witnesses in upholding support disqualifications made due to noncooperation with child support requirements. However, missed or delayed communication between public assistance staff and IV-D staff in the administrative hearing process has led to increased program costs, lost opportunities to resolve issues quickly, and reversals of DHS’s actions by administrative law judges.⁶

Changes in the hearing process are designed to avoid these issues and resolve contested actions at the earliest point possible in the process.

Improved DHS Communication With IV-D Staff

DHS policy in BAM 600, effective March 1, 2014, improves communication between public assistance staff and the IV-D program by requiring that DHS hearings coordinators be responsible for communicating to IV-D staff:

- Hearing requests;
- Prehearing conferences;
- Hearing withdrawals;

² 45 Code of Federal Regulations (CFR) 205.10, 7 CFR 273.15, and 42 CFR 431.200-246

³ Michigan Compiled Law (MCL) 400.9, MCL 400.37, and MCL 400.67

⁴ The AHR is the person who stands in for or represents the assistance client in the hearing process and has the legal right to do so. For more information, reference the [DHS Bridges Policy Glossary](#) and BAM 600.

⁵ Only CPs who receive public assistance benefits on behalf of children must cooperate with child support requirements. Ref: [Section 2.15, “Cooperation/Noncooperation/Good Cause,” of the Michigan IV-D Child Support Manual](#) for more information. For clarity, this IV-D Memorandum will refer to the applicant/recipient as the CP.

⁶ An administrative law judge is an employee of MAHS and conducts the administrative hearing independent of the agency whose action is being contested. After the hearing, the administrative law judge prepares a written decision that contains findings of fact and conclusions of law, and is based exclusively on the evidence presented.

- Adjournments;
- Scheduling and rescheduling of prehearing conferences and hearings; and
- Decisions and orders.

Section 3.55 of the *Michigan IV-D Child Support Manual* indicates that fax is the required communication method between public assistance staff and IV-D staff. This policy remains unchanged. When hearings coordinators fax hearing information, BAM 600 mandates that they use a standard fax cover sheet that includes the text “Administrative Hearing – Time Sensitive,” as well as contact information for the hearings coordinator, DHS specialist, and first-line supervisor (a family independence manager or assistance payments supervisor). IV-D staff must use this contact information throughout the administrative hearing process to communicate supplemental hearing summaries or other documentation.

There may be times when public assistance staff or an administrative law judge needs to immediately contact IV-D staff. In these instances, public assistance staff or the administrative law judge will use the Interactive Voice Response (IVR) phone number: 1-866-540-0008. This phone number will direct the caller to OCS Case Management staff assigned to handle administrative hearing calls. OCS Case Management staff will respond and, if necessary, redirect the call to the appropriate IV-D office or IV-D staff.

Time Frames for the Administrative Hearing Process

Beginning March 1, 2014, DHS local offices must meet the following time frames. Public assistance staff must, without exception:

- Schedule and conduct a prehearing conference within 11 calendar days from the time the hearing request is received in the DHS office, or if the 11th calendar day is a non-work day, then within 14 calendar days; and
- Submit the *Hearing Summary* (DHS-3050) and a complete hearing packet to MAHS within 21 calendar days of receipt of the hearing request in the DHS office.

In addition, DHS hearings coordinators must send the appropriate support specialist/PA office the following information within 24 hours of its receipt at the DHS office:

- The hearing request;
- The date and time of the prehearing conference; and
- The date and time of the hearing.

Once IV-D staff receive notice of a hearing request, DHS requires that IV-D staff prepare a supplemental hearing summary and fax it to the DHS hearings coordinator within **five calendar days**.⁷ If IV-D staff receive notice of a hearing request with fewer than five calendar days before a prehearing conference, IV-D staff will attempt to send the supplemental hearing summary before the prehearing conference is conducted.

MAHS will schedule a hearing when:

- The prehearing conference does not resolve the issues;
- The CP or AHR does not participate in the prehearing conference; or
- The CP or AHR does not sign a hearing request withdrawal at the time of the prehearing conference.

Mandated Prehearing Conferences

The administrative hearing process can be expensive if it continues through to an administrative hearing with an administrative law judge presiding. The change in DHS administrative hearing policy requires a prehearing conference and the opportunity to resolve contested actions before a formal hearing takes place. When DHS resolves the contested issues during the prehearing conference and the CP or AHR signs the withdrawal of a hearing request, it eliminates the formal hearing from the process. Resolving issues prior to the formal hearing results in significant cost savings to the State of Michigan.

Prehearing conferences are encouraged to be meaningful in the new BAM 600 policy. BAM 600 defines a meaningful prehearing conference as one where public assistance staff:

- Determine why the CP or AHR is disputing DHS's action;
- Review any documentation the CP or AHR has to support his/her position; and
- Explain DHS's position and identify and discuss the differences between DHS's position and the CP's or AHR's position.

Public assistance staff **must** schedule a prehearing conference with the CP or AHR, replacing prior policy that suggested, but did not mandate, a prehearing conference. Public assistance staff will use a new form, the *Prehearing Conference Notice* (DHS-1560) to notify CPs or AHRs of the prehearing conference. DHS hearings coordinators will notify IV-D staff of the prehearing conference.

The IV-D office responsible for a noncooperation decision will participate in the prehearing conference. IV-D staff may be able to resolve issues raised by the CP or AHR in the prehearing conference and prevent the need for a hearing.

⁷ The five-calendar-day time frame is a change from current policy in the *Michigan IV-D Child Support Manual* which states that the IV-D worker must provide the supplemental hearing summary within 10 calendar days of receipt of the hearing request. (Ref: Section 3.55, Subsection 2.5, "The Inclusion of the IV-D Agency in the Hearing Process.")

If the disputed action is resolved in the prehearing conference, the CP or AHR may sign the *Hearing Request Withdrawal In-Person* (DHS-18M). DHS's receipt of a signed DHS-18M during the prehearing conference or a *Hearing Request Withdrawal* (DHS-18A) after the prehearing conference stops the hearing process and eliminates the need for a scheduled formal hearing.

Until IV-D staff receive a DHS-18A or DHS-18M from public assistance staff, they are required to participate in the hearing process by:

- Preparing and submitting a supplemental hearing summary;
- Participating in the prehearing conference;
- Participating in the administrative hearing; and
- Complying with the administrative law judge's decision and order.

Instead of receiving a DHS-18A or DHS-18M, IV-D staff may receive an email from public assistance staff indicating they have successfully processed a DHS-18A or DHS-18M.

MAHS Communication and Tracking Enhancements

OCS has established an email address for receiving hearing communications from MAHS:

DHS-OCS-Admin-Hearings@michigan.gov

MAHS staff will install a new hearing tracking system in March 2014. When the DHS-3050 indicates that a hearing request is related to child support cooperation requirements, MAHS staff will send all notices of hearing, orders, and hearing decisions to this email address.

OCS staff will distribute any emails related to actions taken by PA staff to the appropriate PA office.⁸

NECESSARY ACTION:

Retain this IV-D Memorandum until further notice.

REVIEW PARTICIPANTS:

Program Leadership Group
DHS Policy
Administrative Hearings Workgroup

⁸ Ref: [Section 1.10, "Confidentiality/Security," of the Michigan IV-D Child Support Manual](#) for encryption requirements for confidential information and federal tax information.

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MAHS
DHS Field Operations
DHS Program Policy

SUPPORTING REFERENCES:

Federal
7 CFR 273.15
42 CFR 431.200-246
45 CFR 205.10

State
MCL 400.9
MCL 400.37
MCL 400.67

ATTACHMENTS:

None

EPF/ED